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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/053,832    04/01/98    OWENS

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QM32/0925

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EXAMINER
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GOODMAN, C	
ART UNIT	PAPER NUMBER

3724

DATE MAILED:

09/25/01

*19*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/053,832

Applicant(s)

OWENS, WILLIAM M.

Examiner

Charles Goodman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 9-12 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The Preliminary Amendment filed on August 10, 2001 has been entered.

### ***Continued Prosecution Application***

2. The request filed on August 10, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/053,832 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Election/Restrictions***

3. Claims 9-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species II, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - i. P. 3, ll. 18-21, the use of the trademarks "Scandera Red Carbox Rough Top" and "Browning Manufacturing Company" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

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- ii. P. 5, l. 13, the phrase “spring or pneumatic cylinder loaded arm (12, 18, 20, 45)” is not clearly understood. References “12” and “45” have been used to designate a “spring loaded arm”, and now they are referred to as a “pneumatic cylinder loaded arm”. Which is which? If the arms 18, 45 can also be “pneumatic cylinder”, then it is suggested that this alternative be set forth during the first instance of the references so that the specification is clear.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

- 5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 6. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- i. Claim 28 is vague and indefinite in that it is not clear what feature the phrase “which travels in the working direction” is referring to. The way the claim reads, the phrase appears to be referring to the “work bed” which, as disclosed, does not travel.

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***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 15, 18, 22, and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers in view of Baranski.

Chambers discloses the invention substantially as claimed except that Chambers does not show a pair of input-side and output-side pulleys for the input conveyors (10) and the output conveyors (20). Chambers also lacks a groove and strip. However, Baranski teaches an example of a well know conveyor comprising a pair of input side and output side pulleys (126, 128), an endless belt having a non-skid upper surface and a guiding strip (156), the pulleys each having a circumferential groove (122, 124) sized and shaped to match the strip, and a work bed (114) having another groove (120) also sized and shaped to match the strip wherein the belt positively feeds material through a processing unit without any lateral deviation of the belt due to the strip riding in the grooves. See Figs. 4-5, c. 4, l. 22-68. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device and method of Chambers with the conveyor arrangement as taught by Baranski for each of the input and output conveyors in Chambers in order to facilitate positive feeding guidance of the material without concerns of any undesirable lateral movement of the endless belt means during the operation thereof.

Regarding the "adapted to" language in the claims, they have not been given significant patentable weight, since it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability

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to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

9. Claims 16, 17, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers in view of Baranski as applied to claims 15, 18, 22, and 25-32 above, and further in view of Zimmerman.

Regarding claim 16, the modified device of Chambers discloses the invention substantially as claimed except that Chambers lacks specific details of driving the respective conveyors, i.e. driving of certain pulleys by a single power unit. However, Zimmerman teaches that driving of conveyors by a single power unit is a well known driving means in the art. More specifically, Zimmerman teaches a power unit (44) driving the input-side pulley (e.g. at 40c) of the output conveyor (36) and the output-side pulley (e.g. at 40d) of the input conveyor (38) wherein the other pulleys of the respective pairs are passively driven by the driven pulleys and further wherein positively driven pulleys are driven at the same speed so as to feed the material through the processing unit at a uniform rate. Fig. 3. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified device of Chambers with the conveyor driving arrangement as taught by Zimmerman in order to facilitate a simple drive for uniform rate of movement of the material through the processing apparatus.

Regarding claim 23, the modified device of Chambers discloses the invention substantially as claimed except for at least one hold-down member. However, both Baranski and Zimmerman teach that hold-down members are old and well known in the art to facilitate clamped feeding engagement of the material being fed. Note the hold

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down member 98 in Figs. 1 and 4, c. 4, l. 59 - c. 5, l. 18, in Zimmerman. Note the hold down members 86 in Fig. 3 of Baranski. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified device of Chambers with the hold down members as taught by Baranski and Zimmerman combined in order to facilitate clamped feeding engagement of the material being processed.

10. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers in view of Baranski as applied to claims 15, 18, 22, and 25-32 above, and further in view of Conrad.

The modified device of Chambers discloses the invention substantially as claimed except for a plurality of V-shaped notches. However, this feature is obvious for the following reasons.

First, as noted in the last Office Action, the belts with the notch grips has been disclosed as a commercially available belt. For this reason alone, this feature is obvious.

Second, in the alternative, Conrad teaches an endless belt wherein the belt includes guide V-shaped notches (e.g. 34) for the purpose of maximizing the flex of the belt while inherently preventing lateral movement thereof. See c. 1, ll. 61-65. Moreover with respect to the negative limitation "without contacting with...", this is deemed to be an obvious matter of design choice. There is nothing in the specification that places any criticality to how far the notches extend in the lower surface, i.e. it does not solve any stated problem or serve a particular function outside of the inherent lateral movement preventing function. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified device of Chambers with V-shaped

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notches as taught by Conrad in order to maximize the flex experienced by the conveyor belt means during movement thereof. Moreover, it would have been obvious to the ordinary artisan to have the notches extend toward but not touch the lower surface which would provide a slightly more stiff character to the belt, since this is deemed to be an obvious matter of design choice as noted *supra*, and since such a modification would have involved a mere change in the size and/or shape of a component. A change in size and/or shape is generally recognized as being within the level of ordinary skill in the art, especially since such a change does not render unexpected or unobvious results. *In re Rose*, 105 USPQ 237 (CCPA 1955).

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 15-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached on (703) 308-2187. The fax phone number for this Group is (703) 305-3579.




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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**rinaldi.rada@uspto.gov**].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

  
**Charles Goodman**  
**Patent Examiner**  
**AU 3724**

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September 24, 2001